

JUDGE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,	)	NO. CR10-310 RAJ
	)	
Plaintiff,	)	DEFENDANT'S MOTION AND
	)	MEMORANDUM OF LAW FOR
vs.	)	REVOCATION OF MAGISTRATE
	)	JUDGE'S DETENTION ORDER
FREDERICK DARREN BERG,	)	
	)	<b>Note for Motion: December 10, 2010</b>
Defendant.	)	
	)	<b>Oral Argument Requested</b>
	)	
	)	

Darren Berg,<sup>1</sup> by his attorneys, Assistant Federal Public Defenders Jay Stansell and Erik Levin, respectfully move, pursuant to 18 U.S.C. § 3145(b) and Local Rule W.D. Wash. MJR 11, for an order revoking the Magistrate Judge's Detention Order entered December 1, 2010 (Dkt. No. 16).

Mr. Berg is appealing the Magistrate Court's finding that he poses such a serious risk of flight and danger to the community that no conditions could reasonably ensure his appearance and the safety of the community. 18 U.S.C. § 3142(f)(2)(A) and (e).

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<sup>1</sup> Although Mr. Berg's given name is Frederick Darren Berg, he goes by his middle name.

1 This Court's review of the magistrate's pretrial detention order is *de novo*. 18  
 2 U.S.C. § 3145(b); *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990).  
 3 Specifically, this Court must "review the evidence before the magistrate" and any  
 4 additional evidence proffered by the parties "and make its own independent  
 5 determination whether the magistrate's findings are correct, with no deference." *Koenig*,  
 6 912 F.2d at 1193.

7 In support of his motion, Mr. Berg requests that the Court consider the documents  
 8 previously filed in this case, including the Government's Motion for Detention (Dkt 3 in  
 9 *United States v. Berg*, 10 mj-442 [BAT]), the Defendant's Motion and Memorandum of  
 10 Law in Support of Request for Release on Conditions (Dkt. No. 15), and the Magistrate  
 11 Court's Detention Order (Dkt. 17), and the transcript of the detention hearing before  
 12 Magistrate Judge Mary Alice Theiler. A copy of the transcript will be delivered to  
 13 chambers.

14 For the reasons stated in his Motion and Memorandum of Law in Support of  
 15 Request for Release on Conditions, it is respectfully submitted that the Court should  
 16 revoke the Magistrate Court's Detention Order and release Mr. Berg on the conditions  
 17 outlined at pages 16-17 of his Motion and Memorandum of Law in Support of Request  
 18 for Release on Conditions (Dkt. No. 15), any other terms the Court deems appropriate.

19 DATED this 2nd day of December 2010.

20 Respectfully submitted,

21 s/ Erik B. Levin  
 22 New York State Bar No. 4049268  
 23 Attorney for Frederick Darren Berg  
 24 Federal Public Defender's Office  
 25 1601 Fifth Avenue, Suite 700  
 26 Seattle WA 98101  
 206/553-1100 voice  
 206/553-0120 facsimile  
 erik\_levin@fd.org

s/Jay W. Stansell  
WSBA No. 18752  
Attorney for Frederick Darren Berg  
Federal Public Defender  
1601 Fifth Avenue, Suite 700  
Seattle WA 98101  
206/553-1100 voice  
206/553-0120 facsimile  
jay\_stansell@fd.org

MOTION AND MEMORANDUM OF LAW  
FOR REVOCATION OF MAGISTRATE JUDGE'S  
DETENTION ORDER- 3  
(Frederick Darren Berg, CR10-310 (RAJ))

**FEDERAL PUBLIC DEFENDER**  
1601 Fifth Ave., Suite 700  
Seattle, Washington 98101  
(206) 553-1100

**CERTIFICATE OF SERVICE**

I hereby certify that on December 2, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Norman Barbosa  
Carl Blackstone  
Assistant United States Attorneys  
700 Stewart Street, Suite 5220  
Seattle, WA 98101-1271

and I further certify that I have faxed the document to the following non CM/ECF participants:

Sara Johnson  
United States Probation Officer  
700 Stewart Street, Suite 11101  
Seattle, WA 98101

s/Karen A. Crawford  
Paralegal  
Federal Public Defender  
1601 Fifth Avenue, Suite 700  
Seattle WA 98101  
206/553-1100 voice  
206/553-0120 facsimile